IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH

WEDNESDAY, THE 13TH JUNE 2007 / 23RD JYAISHTA 1929

OP.No. 28885 of 2001(L)

PETITIONER:

M/S.FERO GRINDERS
PLOT NO.44, H&C COMPOUND KOLLAM-1, REP,BY ITS PROPRIETRIES S.ANANDAVALLY.

BY ADV. SRI.MOHAMMED RAFIQ

RESPONDENTS:
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1. **THE ASSISTANT EXECUTIVE ENGINEER,**
   KERALA STATE ELECTRICITY BOARD ,
   ELECTRICAL MAJOR SECTION,
   CANTONMENT, KOLLAM.

2. **THE EXECUTIVE ENGINEER,**
   KERALA STATE ELECTRICITY BOARD,
   ELECTRICAL DIVISION, CANTONMENT, KOLLAM.

3. **THE KERALA STATE ELECTRICITY BOARD,**
   VAIDHYUTHI BHAVANAM, TRIVANDRUM
   REP.BY ITS SECRETARY.

4. **THE STATE OF KERALA,**
   REP.BY THE CHIEF SECRETARY, GOVERNMENT SECRETARIAT, THIRUVANANTHAPURAM

BY ADV. SRI.C.K.KARUNAKARAN, SC FOR KSEB
BY GOVERNMENT PLEADER SMT.K.R.DEEPA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 13/06/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP. NO.46985/2001 IN OP. NO.28885/2001

DISMISSED

13.06.2007 **SD/- KURIAN JOSEPH, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1:- COPY OF THE NOTICE NO.DB 22/2001-02 DT. 31.5.01 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P2:- COPY OF THE CONSUMER'S INSTALLATION COMPLETION REPORT NO.383 DT. 5.6.01 SUBMITTED BY THE PETITIONER BEFOR THE 1ST RESPONDENT.

EXT.P3:-COP DEMAND CUM DISCONNECTION NOTICE NO.BB 01470 DT. 1.6.01 ISSUED BY THE 1ST RESPONDENT TO THE PETITIONER.

EXT.P4:- COPY OF THE APPEAL DT. 10.6.01 SUBMITTED BY THE PETITIONER BEFORE 2ND RESPONDENT.

EXT.P5:- COPY OF THE JUDGMENT OF THE HONOURABLE HIGH COURT OF KERALA IN OP. NO.17617/2001 DT. 14.6.01.

EXT.P6:- COPY OF THE ORDER DT. 20.7.01 PASSED BY THE 2ND RESPONDENT.

EXT.P7:- COPY OF THE NOTICE DT. 13.9.01 ISSUEDED BY THE 1ST RESPONDENT.

/TRUE COPY/

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KURIAN JOSEPH J.

O.P. NO.28885 OF 2001

Dated 13th June, 2007.

J U D G M E N T

The writ petition is filed aggrieved by the proceedings initiated by the respondents imposing penalty for not having installed static capacitors, despite directions issued by the Board. It is the contention of the petitioner that there was no notice with regard to the installation of static capacitors and that there was no notice either, prior to the imposition of penalty. But it is seen from Ext.P6 proceedings that during the first inspection conducted at the premises on 1.2.2001, direction was issued for the installation of static capacitor. It is stated that on the second inspection conducted on 21.4.2001, it was found that the capacitor was defective. Thus, it is not as if there was no static capacitor. The capacitor installed at the premises based on the inspection report dated 1.2.2001, was defective. There is no case for the respondents that on the basis of the inspection conducted on 21.4.2001, the defects were not cured. In that view of the matter, there is no justification for imposing penalty, since penalty is permissible only if there is no static capacitor. In the instant

case, there was static capacitor, but not to the required capacity. The imposition of penalty is without any enquiry as to whether the petitioner can be made liable for the defect in the static capacitor. In that view of the matter, penalty is not sustainable. The impugned orders are quashed.

The writ petition is disposed of as above.

KURIAN JOSEPH, JUDGE.

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KURIAN JOSEPH, J.

O.P. NO.28885 OF 2001 (L)

J U D G M E N T

Dated 13th June, 2007.